



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0433; FRL-10402-02-R4]

Air Plan Approval; North Carolina; Minor Revisions to Nitrogen Oxides Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the approval of a revision to the North Carolina State Implementation Plan (SIP) submitted by the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, via a letter dated April 13, 2021, and received by EPA on April 14, 2021. This revision contains minor clarifying and typographical edits to North Carolina's nitrogen oxides (NO_x) rule. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0433. All documents in the docket are listed on the [regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9034. Mr. Scofield can also be reached via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Proposing to Take?

EPA is finalizing the approval of changes to North Carolina's SIP that were provided to EPA through NCDEQ via a letter dated April 13, 2021.¹ EPA is approving the changes to North Carolina's 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .1400, *Nitrogen Oxides* (hereinafter referred to as Section .1400).² The April 13, 2021, revision to the North Carolina SIP transmits changes that do not alter the meaning of the regulations, such as clarifying changes, updated cross-references, and several ministerial language changes.

Specifically, EPA is finalizing the approval of changes to 15A NCAC Subchapter 02D, Rules: .1401, *Definitions*; .1402, *Applicability*; .1403, *Compliance Schedules*; .1404 *Recordkeeping: Reporting: Monitoring*; .1407, *Boilers and Indirect-Fired Process Heaters*; .1408, *Stationary Combustion Turbines*; .1409, *Stationary Internal Combustion Engines*; .1410, *Emissions Averaging*; .1411, *Seasonal Fuel Switching*; .1412, *Petition for Alternative Limitations*; .1413, *Sources Not Otherwise Listed in this Section*; .1414, *Tune-Up Requirements*;

¹ EPA notes that the submittal was received through the State Planning Electronic Collaboration System (SPeCS) on April 14, 2021. For clarity, this notice will refer to the submittal by the date on the cover letter, which is April 13, 2021.

² EPA notes that the Agency received several submittals revising the North Carolina SIP that were transmitted with the same April 13, 2021, cover letter. EPA will be considering action for these other SIP revisions in separate rulemakings.

.1415, *Test Methods and Procedures*; and .1418, *New Electric Generating Units, Boilers, Combustion Turbines, and Large I/C Engines*.³

Through a notice of proposed rulemaking (NPRM), published on November 22, 2022 (87 FR 71286), EPA proposed to approve the April 13, 2021, changes to North Carolina Section 15 NCAC 02D .1400. The details of North Carolina's submission, as well as EPA's rationale for approving the changes, are described in more detail in the November 22, 2022, NPRM. Comments on the November 22, 2022, NPRM were due on or before December 22, 2022. No comments were received on the NPRM, adverse or otherwise.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02D .1401, *Definitions*; .1402, *Applicability*; .1403, *Compliance Schedules*; .1404 *Recordkeeping: Reporting: Monitoring*; .1407, *Boilers and Indirect-Fired Process Heaters*; .1408, *Stationary Combustion Turbines*; .1409, *Stationary Internal Combustion Engines*; .1410, *Emissions Averaging*; .1411, *Seasonal Fuel Switching*; .1412, *Petition for Alternative Limitations*; .1413, *Sources Not Otherwise Listed in this Section*; .1414, *Tune-Up Requirements*; .1415, *Test Methods and Procedures*; and .1418, *New Electric Generating Units, Boilers, Combustion Turbines, and Large I/C Engines*, state effective on October 1, 2020, into the North Carolina SIP. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective

³ At this time, EPA is not finalizing the approval of changes to Rule 02D .1423, *Large Internal Combustion Engines*, included in the notice of proposed rulemaking published on November 22, 2022 (87 FR 71286).

date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

III. Final Action

EPA is finalizing the approval of the April 13, 2021, SIP revision to incorporate various changes to North Carolina's NO_x air provisions into the SIP. Specifically, EPA is proposing to approve various ministerial and minor changes to language and other clarifying changes throughout North Carolina's rules in 02D Section .1400, *Nitrogen Oxides*. EPA is approving these changes because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

⁴ *See* 62 FR 27968 (May 22, 1997).

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: December 30, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In § 52.1770(c), amend table (1) by removing the entries for “Section .1401,” “Section .1402,” “Section .1403,” “Section .1404,” “Section .1407,” “Section .1408,” “Section .1409,” “Section .1410,” “Section .1411,” “Section .1412,” “Section .1413,” “Section .1414,” “Section .1415,” and “Section .1418;” and adding in their place entries for “Rule .1401,” “Rule .1402,” “Rule .1403,” “Rule .1404,” “Rule .1407,” “Rule .1408,” “Rule .1409,” “Rule .1410,” “Rule .1411,” “Rule .1412,” “Rule .1413,” “Rule .1414,” “Rule .1415,” and “Rule .1418” to read as follows:

§ 52.1770 Identification of plan.

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(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Section .1400 Nitrogen Oxides				
Rule .1401	Definitions	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1402	Applicability	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

Rule .1403	Compliance Schedules	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1404	Recordkeeping: Reporting: Monitoring	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1407	Boilers and Indirect-Fired Process Heaters	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1408	Stationary Combustion Turbines	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1409	Stationary Internal Combustion Engines	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1410	Emissions Averaging	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1411	Seasonal Fuel Switching	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

Rule .1412	Petition for Alternative Limitations	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1413	Sources Not Otherwise Listed in This Section	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1414	Tune-Up Requirements	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1415	Test Methods and Procedures	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
Rule .1418	New Electric Generating Units, Large Boilers, and Large I/C Engines	10/1/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2022-28658 Filed: 1/12/2023 8:45 am; Publication Date: 1/13/2023]